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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.13424 OF 2024

Dipak Machindra Balkavade

.. Petitioner

Versus

Madhukar Bhaguji Kasar since deceased through
Legal Heirs and Ors.

.. Respondents

-
- Mr. Vivek Vijay Salunke, Advocate for Petitioner.
 - Mr. Prashant D. Patil, Advocate for Respondent Nos.1a to 2a.
-

CORAM : MILIND N. JADHAV, J.

DATE : SEPTEMBER 23, 2025.

P.C.:

1. Heard Mr. Salunke, learned Advocate for Petitioner and Mr. Patil, learned Advocate for Respondent Nos.1a to 2a.

2. Order dated 10.01.2023, under challenge is passed in Second Revision proceedings filed by Respondent Nos.1 to 5 before the State whereby the Revision stands allowed and by virtue thereof Mutation Entry No.10798 dated 07.04.2005 stands cancelled and Petitioner being aggrieved has moved this Court.

3. Mr. Salunke, learned Advocate for Petitioner would submit that by virtue of Mutation Entry No.10798, names of three (3) sons and one (1) daughter of Petitioner's predecessor-in-title were mutated in respect of subject suit lands. He would submit that thereafter

predecessor-in-title of Respondents challenged the said Mutation Entry in RTS proceedings which culminated into the impugned order. He would submit that 3 orders passed by the quasi-judicial Authority are in favour of Petitioner accepting the Mutation Entry whereas two (2) orders passed are in favour of contesting private Respondents rejecting the Mutation Entry.

4. *PER CONTRA*, Mr. Patil would submit that even though said Mutation Entry has been confirmed by some of the Authorities, the Additional Collector and the State have held to the contrary. He would submit that subject suit lands are situated in Deolali Cantonment Area and in that view of the matter, recording of names of legal heirs of the original holder cannot be done since provisions of Tenancy Act would not be applicable. He would submit that both the parties have claimed entitlement to the subject suit lands.

5. I have heard Mr. Salunke, learned Advocate for Petitioner and Mr. Patil, learned Advocate for Respondent Nos.1a to 2a and perused the record of the case. Submissions made by both the learned Advocates at the bar has received due consideration of the Court.

6. At the outset, both the learned Advocates have jointly informed the Court that Regular Civil Suit No.163 of 2014 is pending before the Civil Court seeking declaration of title to the subject suit lands which is the subject matter of the contentious Mutation Entry.

7. It is seen that the subject suit lands originally belonged to Dhopawkar family. It is also seen that registered Sale Deed dated 23.05.1961 was executed between the Dhopawkar family and predecessor-in-title of private Respondents. It is seen that Respondents are relying upon a Mutation Entry No.4059 made in favour of their predecessor-in-title, possession of the subject suit lands with them and they being cultivating it over the years. It is seen that in the year 2005 for the first time three (3) sons and one (1) daughter of tenant of the subject suit lands (Petitioner's predecessor-in-title) made an Application for mutation of their names, on the ground that their predecessor was a protected tenant. Thus, it is seen that successors-in-title to the original landlord and the tenant are engaged in a conflict for claiming entitlement to the subject suit lands.

8. It is seen that both their claims are based on Mutation Entries. It is clear that Mutation Entry does not determine title rather they are not evidence of title. Primary title has to be established on the basis of either registered Sale Deed or by operation of law fructifying the title of parties. Both parties before me are engaged in a Civil Suit for seeking declaratory relief of entitlement to the subject suit lands. It is seen that Suit No.163 of 2014 is pending before the Civil Court which will determine either the title of Petitioner or the private Respondents to the subject suit lands.

9. Hence, it is directed by the Court that the said Civil Suit be expedited by the learned Trial Court where it is pending and it be determined finally within a period of 10 months from today, keeping all contentions of both the parties expressly open as the outcome of the said Suit shall determine the legality and validity of the contentious Mutation Entry No.10798 in respect of the subject suit lands and the said entry shall therefore be subject to the final decision in the Suit.

10. Both parties shall maintain *status quo* on 'as is, what is' basis as on today in respect of the subject suit lands. All contentions of both the parties are kept open for proving their respective entitlement to the said lands and the Suit shall be determined on the basis of evidence and the Trial Court shall not be influenced by the various orders passed by quasi-judicial orders including the impugned order passed in Second Revision Application while deciding the Suit.

11. Thus, it is directed that the disputed Mutation Entry No.10798 shall be subject to the final outcome and determination of Civil Suit No.163 of 2014. In view of the above directions, observations and findings, all issues of both the parties are expressly kept open and the Petition is disposed.

12. Writ Petition is disposed.

[MILIND N. JADHAV, J.]

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